



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,679	07/11/2001	Eric Aubay	022701-939	8975

7590

03/09/2005

Norman H. Stepno, Esquire  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, VA 22313-1404

EXAMINER
----------

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/901,679

Applicant(s)

AUBAY ET AL.

Examiner

Brian P Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed December 1, 2004. Applicant has amended claims 10, 21, 29 and 30. Currently, claims 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 8, 10 and 20040615.
3. The rejection of claims 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 under 35 U.S.C. 112, first paragraph, is withdrawn in view of applicant's amendments and remarks.
4. The rejection of claims 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 under 35 U.S.C. 102(b) as being anticipated by Sharma et al, WO 98/00449, is maintained for the reasons of record.
5. The rejection of claims 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 under 35 U.S.C. 102(b) as being anticipated by Matsuda et al, U.S. Patent No. 4,746,455, is maintained for the reasons of record.

Art Unit: 1751

6. The rejection of claims 2-6, 9-11, 13-15, 21-23, 29, 30, 33-36 and 40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/362,455 is withdrawn in view of applicant's timely filed terminal disclaimer.

### ***Response to Arguments***

7. Applicant's arguments filed December 1, 2004 have been fully considered but they are not persuasive.

Applicant continues to argue that Sharma et al, WO 98/00449, does not teach or suggest in general a composition that that contains polymers that are prepared from amphoteric monomers. However, the examiner respectfully maintains that Sharma et al does indeed teach this limitation. Specifically, the examiner maintains that the monomers disclosed on page 6 of Sharma et al contain both anionically functional monomers (i.e. contain a sulfonate group) and cationically functional monomers (i.e. an ammonium group). Thus, the examiner respectfully asserts that Sharma et al clearly teaches the monomers required in the instant claims. It is further argued by applicant that Sharma et al do not teach the process requirements of instant claims 29 and 30. The examiner respectfully disagrees. Specifically, Sharma et al teaches in their background of invention that the polymers are used to treat textile fabrics (see page 1, lines 9-29 of Sharma et al), which clearly meets applicant's requirement of "treating said fabric" that is recited in instant claims 29 and 30.

Art Unit: 1751

Applicant argues that Matsuda et al, U.S. Patent No. 4,746,455, does not teach or suggest in general a composition that contains polymers that are prepared from amphoteric monomers. However, the examiner respectfully asserts that the monomers disclosed in col. 2, line 51-col. 3, line 34 of Matsuda et al clearly contain both anionically functional monomers and cationically functional monomers, per the requirements of the instant claims. It is further argued by applicant that Matsuda et al do not teach the process requirements of instant claims 29 and 30. The examiner respectfully disagrees. Specifically, Matsuda et al teaches in their background of invention that the polymers are used to treat textile fabrics (see col. 1, lines 7-28 of Matsuda et al), which clearly meets applicant's requirement of "treating said fabric" that is recited in instant claims 29 and 30.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

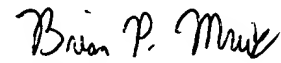
Art Unit: 1751

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

BPM  
Brian Mruk  
March 2, 2005

  
Brian P. Mruk  
Primary Examiner  
Tech Center 1700